IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27/9/2004

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.5858 of 2004
and
WPMP No.6844 of 2004

G. Krishna Mohan Rao .. Petitioner

-vs-

1. State of Tamil Nadu
rep. by its Secretary to Government
PWD, National Highways
Fort St. George
Chennai 9
2. The General Manager
National Highways Authority of
India
No.8, 29th Cross Street
Indra Nagar, Adyar
Chennai 20.
3. The Project In-Charge,
Tambaram-Maduravayal Bye Pass
Road,
(NH), TNRDC Sindur Panthion Plaza
2nd Floor,
346, Panthean Road
Egmore, Chennai 8.
4. Union of India
rep. by its National Highways
Authority India
No.5 & 6 G- Sector
New Delhi 45.
5. The Inspector of Police
Sankar Nagar Police Station
Sankar Nagar
Pammal, Chennai 75. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus as stated therein.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.P.Chandrasekaran
Additional Government Pleader
for R1
Mr.B.Harikrishnan for R2
Mr.R.Krishnamoorthi
Senior Counsel
for Mr.S.Raghunathan for R3

:ORDER

Heard the learned Counsel for the petitioner, the learned Additional Government Pleader for the first respondent, the learned Counsel for the second respondent and the learned Senior Counsel for the third respondent.
2. This Court is of the considered opinion, on scrutiny of the materials available and hearing the rival submissions, that it would be suffice to give a disposal to the writ petition itself, and accordingly, an order is given as follows.
3. The petitioner in the writ petition seeks the relief, which runs as follows:
"Issue a writ of mandamus directing the respondents to provide slip road by removing barricade for 24 feet at the Thiruneermalai at 4.5-4.7 KM from Tambaram in the Tambaram-Maduravayal National Highway as an alternative road so as to enable the petitioner to reach the Tambaram-Maduravayal National Highway and other Highways from his quarry."

4. As could be seen from the available materials, the case of the petitioner is that he is having his quarry situated in Thiruneermalai Village, and it is also situated nearby Tambaram-Maduravayal National Highway at 4.5-4.7 KM, and it is a commercial area. While he was carrying on his quarrying operation, he used to reach the National Highways from his quarry directly. While so, the barricades have been placed on the side of the National Highway Road, and his approach to the National Highways from his quarry is thoroughly blocked, and under such circumstances, he is not in a position to reach the quarry site. Hence, it has become necessary to give a direction to the respondents to remove the barricades for about 24 feet enabling him to reach Tambaram-Maduravayal National Highway from his quarry.
5. In answer to the above, it is contended by the learned Senior Counsel appearing for the third respondent that the National Highway connecting the two points, was completed in 2002 itself; that the providing of a slip road as an alternative route would arise only when there is no access to the quarry; but, there is a kutcha road; that the public have been using the kutcha road all along the past; that the erection of the barricades runs to nearly 24 Kms; that any removal of the same at any point would be nothing but welcoming accidents; that in order to avoid the accidents, the barricades have been erected continuously for 24 Kms; that if the request of the petitioner is acceded to by removal of the barricades as asked by him in the writ petition, it would be nothing but allowing the accidents to take place, and the same in the interest of the public has got to be avoided, and for these two reasons, the writ petition carries no merits, and it has got to be dismissed.
6. Admittedly, the petitioner is having his quarry at Thiruneermalai

on the roadside of the National Highways. It is also not in dispute that barricades have been placed on either side of the road. The only grievance ventilated now by the petitioner before this Court, is that by the placement of such barricades, he could not have direct approach to the National Highways, while it is brought to the notice of the Court by the learned Senior Counsel for the third respondent that the said National Highway was completed in the year 2002, and the barricades have been placed to a stretch of 24 Kms., and there is a kutcha road also available, which is being used by the public, and any removal of any part of the barricades at any point would be a cause for accidents. Under such circumstances, in order to avoid the accidents, there cannot be a direction issued to the respondents to remove the barricades. That apart, while a kutcha road is also available and it is also being used by the public, it cannot be done. The contention of the learned Counsel for the petitioner that if the kutcha road is used by him, then he has to use the same for 24 Kms., and hence, the barricades have got to be removed at the particular point cannot be countenanced. In view of the public interest which should be given paramount importance, and in order to avoid the accidents, the Court is of the view that it would not be worthwhile to issue a direction for the removal of the barricades. Hence, this Court is unable to see any merit in the contentions put forth by the petitioner's side.
7. Therefore, this writ petition fails, and the same is dismissed.
No costs. Consequently, connected WPMP is also dismissed.

Index: yes

Internet: yes

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